

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WILLIAM E. POWELL,

Plaintiff,

v.

INTERNAL REVENUE SERVICE,

Defendant.

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Case No. 15-11033

Paul D. Borman  
United States District Judge

ORDER DENYING  
PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT (ECF No. 18)

On March 19, 2015, Plaintiff William E. Powell, proceeding pro se, filed the instant action against Defendant Internal Revenue Service, alleging violations of Freedom of Information Act. (ECF No. 1). Thereafter, on April 21, 2015, Plaintiff filed an amended complaint. (ECF No. 9, 10). On June 2, 2015, Plaintiff filed a motion for default judgment against Defendant. (ECF No. 18).

Pursuant to Federal Rule of Civil Procedure 55(b) a judgment by default may be entered against a defendant who has failed to plead or otherwise defend against an action. FED. R. CIV. P. 55(b). In order to obtain judgment by default, the proponent must first request the clerk's entry of default pursuant to Rule 55(a). *See Hanner v. City of Dearborn Heights*, No. 07-15251, 2008 WL 2744860, at \*1 (E.D. Mich. July 14, 2008). Once a default is obtained, the party may then file for a default judgment by the clerk or by the court. FED. R. CIV. P. 55(b). When the plaintiff's complaint alleges damages for a sum certain a default judgment by clerk is appropriate. FED. R. CIV. P. 55(b)(1). "In all other cases, the party must apply to the court for a default judgment." FED. R. CIV. P. 55(b)(2).

In the present action, Plaintiff appears to request a default judgment from this Court pursuant to Rule 55(b)(2) but has failed to first request a clerk's entry of default pursuant Rule 55(a). Therefore his request for a default judgment is improper. Additionally, the Court notes that Defendant has since filed its Answer to Plaintiff's Amended Complaint. (ECF No. 19).

Accordingly, the Court DENIES Plaintiff's Motion for a Default Judgment. (ECF No. 18).

IT IS SO ORDERED.

s/Paul D. Borman  
PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: July 13, 2015

#### CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 13, 2015.

s/Deborah Tofil  
Case Manager